

FILED

JUL 26 2021

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

Peter E. Allison

Plaintiff

-VS-

United States of America

Defendant(s)

1:21 CV 1432
CASE NO.

JUDGE OLIVER

JUDGE

MAG. JUDGE GREENBERG
COMPLAINT

**THE FEDERAL TORT CLAIMS ACT
COMPLAINT FOR DAMAGES**

1. Address of parties involved.

Plaintiff Peter E Allison, 5012 N. Sedgewick rd, Lyndhurst OH, 44124

Defendant United States of America, (VA Medical center 10701 east
BLVD, Cleveland Oh 44106)

2. Basis for courts Jurisdiction

Federal Tort Claims Act, Title 28 U.S.C § 2671-- 2680

And Federal Tort Claims Act Title 28 U.S.C. § 1346(b)1

3 Administrative form SF-95 was submitted to VA, 11/26/2019
Office of Chief Counsel, 441 Wolf Ledges Parkway, Suite 403, Akron,
Ohio 44311. (displayed on exhibit A)

4 Resulting in the following letters to Plaintiff Allison from Sonya
Barganier, 1/6/2020, Muskogee OK, *contact information* for
Janet Barnes (letter displayed in exhibit A)

5 Letter, Janet H. Barnes, 3/26/2020, Muskogee OK, saying
all providers were from University Hospital(UH) and not
from VA, (letter displayed in exhibit A)

6 letter, Cynthia Hernandez, 4/1/2020, Waco TX, claim
denied . (letter displayed in exhibit A)

7 Plaintiff Allison, 5/21/2020 sends letters to Janet H. Barnes and Cynthia Hernandez, explaining Magnetic Resonance Imaging (MRI) needed by Dr. Hoffer(UH) where all run by VA Staff using VA equipment and facilities along with pre surgery wash up. (letters displayed in exhibit A)

8 Letter, Ashley Russell, 7/20/2020, Washington DC saying we will begin our reconsideration as soon as possible. And also saying 6 month period to file a suit is also suspended. Further, If after time is up and no decision reached Plaintiff can either wait some more or deem it denied by filing a law suit in federal court. (letters displayed in exhibit A)

9 Letter, Cynthia Hernandez also sent letter similar to Ashley Russell letter, but was misfiled or lost and not displayed in exhibit A.

Complaint Allegation Facts

10. Plaintiff Allison deemed reconsideration denied is filling complaint , since as of 3/23/21 no VA information has been received by Plaintiff Allison.

11. Background for plaintiff Allison accident is as follows: On 7/5/2017 Plaintiff Allison tripped on stepping stone and was paralyzed from neck down while cutting grass, then rushed to Hillcrest Hospital(Cleveland clinic), latter told doctors his functions are Ok (feeling in toes, legs, hands OK) but should have laminectomy after swelling on spinal cord goes down.

12. Then transferred to local rehab facility until swelling on spinal cord is reduced, then to VA Medical center 10701 east BLVD, Cleveland Oh 44106 in late August or early September of that year(2017).

13. During duration of 2 months plaintiff Allison went from not able to use hands to feed himself but improved to waste down paralysis, but could walk using walker device.

14. Plaintiff Allison upon arrival at VA medical center was interviewed by doctors and vesting student doctors (VA medical hospital is referred to as a teaching hospital). Visiting Doctor with student said "we are giving you an operation", then asked geneal questions, However, the strangest question asked of Plaintiff Allison weather he had been a lawyer or a judge in his past employment. Plaintiff Allison thought doctor humorous or joking at that time. (plaintiff Allison only legal experience was writing own patent for PTO, awarded Patent #5522162 invention called "snow Blower shovel" an not related to present health issue.), or was patient a litigation concern?

15. View Plaintiff Allison's MRI(magnetic resonance imagining) dated 9/5/2017 to see how the lamina collapsed in a wedge compressing spinal cord. See also MRI dated 10/20/2016 lamina had not collapsed when VA was diagnosing plaintiff for spinal stenosis. (Imagoes displayed in exhibit A)

16. In almost a full 3 months at VA and between surgery at UH there was no pre surgery examination, no discussion of Operation procedures, no mention to plaintiff Allison that he faced "major surgery", and no preparations or planning for what is a major surgery procedure "laminectomy and fusion". Therefore both VA staff and Dr Sef Hoffer contributed to neglance and malpractice of plaintiff Allison's operation, Further, VA should have tried non-surgical methods first before going into dangerous "major surgery", demonstrating VA staff is poorly qualified and lacks organization.

17. VA neurology sent plaintiff Allison to visit University Hospital(UH), talked to a Sef Hoffer Neurosurgery o said plaintiff Allison was to have laminectomy and fusion on 11/30/2017. Sef Hoffer(UH) discussed surgical risks such as infection an percent chance of walking again estimated at 80% but nothing else.

18. Plaintiff Allison notes again as in (14) there was no diagnosis of neck, and in addition no x-rays taken so there was no study of neck vertebra where titanium implants, screws could be attached to cervical lamina vertebra bone in neck so Cervical implants were poorly or improperly placed. Titanium metal rods, part implants hold cervical bones together for cervical bone fusion. No explanation of terms laminectomy or fusion was ever given to plaintiff Allison by VA or Dr Hoffer and in so doing VA took complete advantage of his ignorance at that time. VA Staff person told plaintiff Allison the VA doesn't have expertise to do operation. This brings up questions of how VA staff selected Dr Sef Hoffer for neurosurgery since VA admits it doesn't have the expertise how could they make quality selection or decision.

19 Plaintiff Allison notes: in addition to Hoffer's expertise University Hospital might be considered an independent contractor (as in (5) VA letter) which is an exception to FTCA and used to Void neglect / malpractice veteran claims. However in this case VA Medical center10701 East Blvd. is affiliated with University Hospital UH. UH even advertise for resident doctors and says they must fill out special paper work for FTCA insurance coverage in case of negligence malpractice law suit at VA (see UH ad displayed in Exhibit A)

20. After fusion surgery and laminectomy (11/30/2017)
problems appeared, could not bend head backwards, poor balance, tingling in finger tips, and later difficulty holding head up and could not stand up straight.
The neck was bent forward and no longer had support of body
Under neck (kyphosis see figure drawing in exhibit A)

21. VA neurology sends Plaintiff Allison to Dr Hoffer post surgery progress check and Plaintiff Allison brought up questions and demonstrated walking problems:
There was not much of a pre surgery diagnosis
Huffers answer..... VA said it was an emergency
Why did I need Fusion when all I needed was Laminectomy ?
Huffers answer.....so it won't happen again
Why Can't I bend my head back words?
Hoffers answer "cause you can't"!
Why do I have a herniated disk ?
Hoffers answer..... "I made you walk"
Repeated why do I have a herniated disk question?
Hoffers answer..... "Cause it couldn't be helped!"
Why is my head falling into my chest?
Hoffers answer.....No Answer, But said "Oh I can fix that only this time we go in from the front" of your neck and use fusion to hold head up.
But then Hoffer quickly added "But what would the VA say?"
Plaintiff Allison also demonstrated how he walks (see figure drawing kyphosis in supporting evidence Exhibit A)

22. Plaintiff Allison notes: After bungled neck surgery By VA/ And Hoffer UH, plaintiff Allison isn't going along Hoffer's anterior (enter from front) surgery fusion to attempt to repair cervical kyphosis, simply because it's too dangerous!

23. Plaintiff Allison notes: the VA, Dr. Hoffer, and surgeons in general only give 1/2 the information needed just to get patients consent, neglecting dangers involved and other negative outcomes. In this case, cervical vertebra fusion of c7, c6, c5, is near the larynx (voice box) and another surgical error or mistake would leave plaintiff Allison muted for life. Further, in this case fusion of vertebra prevents patient from looking down and require him to bend body downward.

24. Plaintiff Allison notes: It was impossible to get any type of technical medical information from VA or UH doctors. Plaintiff Allison did manage to get CD's containing MRI's and CT's scans from VA, but doctors notes were never available to Veterans.

Additionally, virtually all medical information was self taught in plaintiff's Allison home office and using search engine Google for medical, legal information sources for complaint.

25. Plaintiff Allison noted: fixing the kyphosis deformity became a VA obsession. Plaintiff Allison was sent to meetings with doctors VA staff, Dr Hadbeb, UH Dr, Miller and Dr. Ahuja . However, all the neurosurgeons used methods similar to Dr. Hoffer anterior (enter from front) surgery fusion.

26. Plaintiff Allison now insisted on only non-surgical methods. VA staff had no further interest saying they offer surgery.

27. Conclusions

- 1 Experience, Qualifications of VA/UH staff are questionable.**
- 2 No diagnosis, almost a full 3 months pasted from MIR of 9/5/17 till operation 11/30/17**
- 3 The VA and Hoffer had more than enough time to develop a procedure plan since plaintiff Allison was paralyzed and in bead at VA Hospital but didn't.**
- 4 The end result of 1,2, 3 a herniated disc and Cervical kyphosis (negligence and malpractice) caused by no preoperative evaluation or planning(omission).**

28. Prayer for Relief

Plaintiff Peter E. Allison prays that the Judgment be entered in his favor and against the Defendant as follows:

- 1) Future Medical Expense, Pain and suffering, Future Impairment, loss of enjoyment of life and Entrepreneurial Business development for future income**
- Totaling \$ 10, 000, 000. 00**

Respectfully Submitted

Peter E. Allison Pro Sc

Peter Allison Pro Sc

**Peter E Allison Pro Sc
5012 N. Sedgwick rd
Lyndhurst Ohio 44124**

**Write E-mail Address
For supporting evidence
Exhibit A**